

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

RICHARD A. SPANN-EL,

Plaintiff,

v.

BENNET, et al.,

Defendants.

CAUSE NO. 3:20-CV-760-RLM-MGG

ORDER

This case was referred to Magistrate Judge Michael G. Gotsch, Sr., pursuant to 28 U.S.C. § 636(b)(1)(B), Federal Rule of Civil Procedure 72(b), and Northern District of Indiana Local Rule 72-1(b) to conduct a hearing under Pavey v. Conley, 544 F.3d 739 (7th Cir. 2008) and prepare a report and recommendation on the issue of exhaustion of administrative remedies. Magistrate Judge Gotsch issued his report and recommendation on October 3. The magistrate judge found that Mr. Spann-El tried to utilize the grievance process but that it was unavailable to him because prison staff didn't respond to his requests for grievance forms. Judge Gotsch recommended that the case be allowed to proceed to merits discovery. (ECF 80.)

Both 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b) require the parties to file objections to a report and recommendation within 14 days. The Magistrate Judge alerted the parties to this requirement in the report and recommendation. (ECF 80 at 7.) More than 14 days have passed since the report and recommendation was issued, and no party has filed an objection.

Having reviewed the report and recommendation (ECF 80) and finding no clear error within it, the court ADOPTS it in its entirety and incorporates Magistrate Judge Gotsch's recommendations into this order. The defendants' exhaustion defense is DENIED, and the case shall proceed to merits discovery.

SO ORDERED on October 24, 2022

s/ Robert L. Miller, Jr.  
JUDGE  
UNITED STATES DISTRICT COURT